IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.MC.No. 2067 of 2007()

CC.210/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA

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PETITIONER:

ABDUL KHADER,
S/O.AHAMMED KOYA, P.K.M.HOUSE,
VENGARA P.O., MALAPPURAM DISTRICT.

BY ADV. SMT.K.G.SAROJINI
SMT.N.C.SALINI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE,
WANDOOR, MALAPPURAM DISTRICT.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2067 Of 2007

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Dated this the 27th day of June, 2007

ORDER

The petitioner is the 1st accused in a prosecution under Sec. 420 IPC. The co-accused have already been tried found not guilty and aquitted. The petitioner was not available for trial and the case against him was split up. Consequent to non appearance of the petitioner, the learned Magistrate has issued non bailable warrant to procure the presence of the petitioner.

2. The learned counsel for the petitioner submits that the failure/omission on the part of the petitioner earlier was on account of reasons beyond his control. The petitioner is now willing to appear before the learned Magistrate. He therefore prays that a direction may be issued under Section 482 Cr.P.C to the learned Magistrate to release him on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate must consider such application for bail on merits, in accordance with law and expeditiously. I have no reason to assume that the learned Magistrate would not consider such

application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously- on the date of surrender itself.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE